

## **Kansas Preservation of Religious Freedom Act; HB 2203**

**HB 2203** enacts the Kansas Preservation of Religious Freedom Act, which provides government shall not substantially burden a person's civil right to exercise religion, even if the burden results from a rule of general applicability, unless the government demonstrates, by clear and convincing evidence, application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest. The Act applies to all government action, including state and local laws, ordinances, rules, regulations, and policies, and to their implementation, whether enacted or adopted before, on, or after the Act's effective date.

The bill defines key terms, including "compelling governmental interest," and provides that, in determining whether a compelling governmental interest justifies a substantial burden on a person's exercise of religion, only those interests of the highest order and not otherwise served can overbalance the fundamental right to the exercise of religion preserved by the Act. Further, for the government to meet the standard outlined above, it must demonstrate that the standard is satisfied through application of the asserted violation of this act to the particular claimant whose sincere exercise of religion has been burdened. The bill also states the religious liberty interest the Act protects is an independent liberty that occupies a preferred position, and prohibits encroachments upon this liberty, whether direct or indirect, unless required by clear and compelling governmental interests of the highest order.

The bill allows a person whose exercise of religion has been burdened or is substantially likely to be burdened, in violation of the Act, to assert the violation as a claim or defense in a judicial proceeding. Courts may grant appropriate relief as may be necessary, including injunctive relief, protective orders, a writ of mandamus or prohibition, declaratory relief, actual damages, and costs and attorney fees determined by the court. If a court finds a person made a fraudulent claim under the Act, the court can enjoin the person from filing further claims under the Act without leave of court. Further, the bill provides the Act shall not be construed to:

- Impair the fundamental right of parents to control the care and custody of their minor children, as provided by state and federal law;
- Authorize any relationship, marital or otherwise, that would violate Art. 15, Sec. 16 of the *Kansas Constitution*;
- Authorize the application or enforcement in Kansas courts of any law, rule, code, or legal system, other than state and federal law;
- Limit any religious organization from receiving any funding or other assistance from a government, or of any person to receive government funding for a religious activity to the extent permitted by state and federal law; or
- Protect actions or decisions to end the life of any adult or child, born or unborn.

Additionally, the bill does not apply to penological rules and regulations, conditions, or policies established by a jail, correctional institution, juvenile correctional facility, juvenile detention facility, or an entity supervising offenders in the community that are reasonably related to the safety and security of incarcerated persons, staff, visitors, supervised offenders, or the public, or to maintenance of good order and discipline in any jail, correctional institution, or juvenile detention facility.